

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

FLIPBOARD, INC.,  
Plaintiff,

v.

KALLIOPE AMORPHOUS,  
Defendant.

Case No. [15-cv-03255-BLF](#)

**ORDER DENYING PLAINTIFF'S  
ADMINISTRATIVE MOTION**

Before the Court is Plaintiff's Administrative Motion to Set Deadline for Defendant to File Compulsory Counterclaims or Waive Them. ECF 44. Plaintiff argues that, pursuant to Rule 13(a), Defendant, who is *pro se*, was required to assert any compulsory counterclaims in her Answer, filed on January 7, 2016. *Id.* at 1. In light of Defendant's *pro se* status, Plaintiff now seeks a deadline by which Defendant must assert her counterclaims and asks the Court to deem any counterclaims not asserted waived and barred by *res judicata* in this or any other case. *Id.* Defendant opposes the motion. ECF 45.

The Court finds the request for a deadline to be premature and the request for a declaration of future waiver of claims to lack merit. The parties may agree to a last day to amend pleadings at the Initial Case Management Conference ("CMC"), set for March 3, 2016. Such a deadline is a typical part of a Case Management Order. However, the Court notes that omitting a counterclaim in an answer does not necessarily bar its introduction in the future. Under Rule 13(a), a pleading must state any claim that meets certain conditions as a counterclaim. Fed. R. Civ. P. 13. However, under Rule 15, a court must grant leave to amend to add a counterclaim when justice so requires.

1 See Fed. R. Civ. P. 13 advisory committee's note ("An amendment to add a counterclaim will be  
2 governed by Rule 15. . . leave should be freely given when justice so requires."); *see also* Fed. R.  
3 Civ. P. 15(a)(2).

4 Accordingly, Plaintiff's Administrative Motion is DENIED.

5 **IT IS SO ORDERED.**

6 Dated: February 2, 2016

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8 BETH LABSON FREEMAN  
9 United States District Judge  
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